CRAIG CARPENITO
United States Attorney

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

ERIN F. DARDEN
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227
Washington, D.C. 20044
202-307-6501 (v)
202-514-6866 (f)
Erin.Darden@usdoj.gov

Counsel for United States

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,	)	
	)	Case No.
Plaintiff,	)	
	)	
v.	)	
	)	
MICHAEL B. LEO,	)	
	)	
Defendant.	)	
_____	)	

COMPLAINT FOR FEDERAL TAXES

Plaintiff, the United States of America, brings this action at the request and with the

authorization of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of

the Treasury, and at the direction of the Attorney General of the United States to collect the

federal income taxes, interest and penalties assessed against Michael B. Leo for tax years 2005

through 2016 and the civil penalties assessed against him in connection to Onsite Equipment

Maintenance, LLC. for the fourth quarter of 2008, first through third quarters of 2009, third and

fourth quarters of 2010, all quarters of 2011 and the first quarter of 2012. In support of this

Complaint, the United States avers as follows:

Jurisdiction and Venue

1.   This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and

1345, and 26 U.S.C. §§ 7401 and 7402(a).

2.   Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1396 because the

defendant resides within this Court's jurisdiction.

Parties

3.   Plaintiff is the United States of America.

4.   Defendant, Michael B. Leo, is the taxpayer against whom the unpaid federal

income tax liabilities and civil penalties at issue in this action are assessed. He resides at 26

Deborah Drive in Edison New Jersey, within the jurisdiction of this Court.

Count I: Reduce Federal Income Tax Assessments to Judgment

5.   The United States incorporates paragraph 1 through 4 of this Complaint as if fully

set forth herein.

6.   Based on federal income tax returns (Form 1040) Michael B. Leo filed with the

Internal Revenue Service ("IRS"), a delegate of the Treasury has made federal income tax

assessments against him as follows:

Tax Type	Tax Period Ending	Date of Assessment	Amount of Assessment	Outstanding Balance (as of 2/12/18)
Income	12/31/2005	03/24/2008	$18,265	$43,732
Income	12/31/2006	06/02/2008	$21,776	$48,732
Income	12/31/2007	05/03/2010	$26,649	$56,345
Income	12/31/2008	05/17/2010	$32,088	$63,822
Income	12/31/2009	05/16/2011	$48,316	$91,949
Income	12/31/2010	05/07/2012	$36,826	$68,251
Income	12/31/2011	03/18/2013	$25,543	$45,559

Tax Type	Tax Period Ending	Date of Assessment	Amount of Assessment	Outstanding Balance (as of 2/12/18)
Income	12/31/2012	09/09/2013	$24,847	$41,820
Income	12/31/2013	06/06/2017	$30,090	$39,926
Income	12/31/2014	03/13/2017	$41,201	$65,655
Income	12/31/2015	08/29/2016	$34,503	$49,688
Income	12/31/2016	06/05/2017	$24,984	$13,721
Total				$629,200

7.   Penalties and interest have accrued on the unpaid balance of the assessments set forth in paragraph 6 according to law, and will continue to accrue until paid in full.

8.   A delegate of the Secretary of the Treasury gave Michel B. Leo notice and demand for payment of the assessments described in paragraph 6.

9.   Defendant Michael B. Leo has failed to pay the United States the full amount of the tax assessments described in paragraph 6.

10.   On account of the assessments described in paragraph 6, defendant Michael B. Leo is indebted to the United States in the amount of $629,200 as of February 12, 2018, for federal income taxes plus penalties and interest that have accrued, and will continue to accrue until paid.

Count II: Reduce Civil Penalties to Judgment

11.   The United States incorporates paragraphs 1 through 4 by reference, as if full set forth herein.

12.   At all relevant times, Michael B. Leo was the president and owner of Onsite Equipment Maintenance, LLC. As the owner and president, he was responsible for withholding employment taxes from his employees' wages, and paying those taxes to the IRS through federal tax deposits.

13.   Michael B. Leo failed to collect and remit federal tax deposits to the IRS. As a

result, a delegate of the Treasury assessed civil penalties against him pursuant to 26 U.S.C.

6672 as follows:

Penalty Type	Tax Period Ending	Date of Assessment	Amount of Assessment	Outstanding Balance (as of 2/12/18)
§6672	12/31/2008	10/03/2011	$9,884	$12,249
§6672	03/31/2009	10/03/2011	$1,980	$2,442
§6672	06/30/2009	03/11/2013	$9,046	$10,685
§6672	09/30/2009	10/03/2011	$4,718	$5,818
§6672	09/30/2010	03/11/2013	$ 1,025	$1,212
§6672	12/31/2010	03/11/2013	$12,734	$15,041
§6672	03/31/2011	03/11/2013	$3,974	$4,694
§6672	06/30/2011	03/11/2013	$5,833	$6,889
§6672	09/30/2011	03/11/2013	$504	$595
§6672	12/31/2011	03/11/2013	$3,857	$4,556
§6672	03/31/2012	03/11/2013	$4,251	$5,022
TOTAL				$69,203

14.   Interest has accrued on the assessments set forth in paragraph 13 according to law,

and will continue to accrue on the unpaid balance.

15.   A delegate of the secretary of the Treasury gave Michael B. Leo notice and

demand for payment of the assessments described in paragraph 13.

16.   Defendant Michael B. Leo has failed to pay the United States the full amount of

the civil penalty assessments described in paragraph 13.

17.   On account of the assessments described in paragraph 13, defendant Michael B.

Leo is indebted to the United States in the amount of $69,203 as of February 12, 2018, for

the civil penalties assessed against him in connection to Onsite Equipment Maintenance,

LLC, plus interest that has accrued and will continue to accrue until paid.

WHEREFORE, the United States of America requests judgment as follows:

4

A.   As to Count I, that the Court render judgment in favor of the United States and against defendant Michael B. Leo, for his unpaid federal income tax liabilities relating to tax years 2005 through 2016, including interest and penalties in the amount of $629,196 as of February 12, 2018, plus interest and penalties that will accrue after that date until paid;

B.   As to Court II, that the Court render judgment in favor of the United States and against defendant Michael B. Leo, for his unpaid civil penalties relating to Onsite Equipment Maintenance, LLC. in the amount of $69,203 as of February 12, 2018, plus interest that have accrued since this date and will continue to accrue until paid in full, for the fourth quarter of 2008, first through third quarters of 2009, third and fourth quarters of 2010, all quarters of 2011 and the first quarter of 2012;

C.   That the Court award the United States its costs and expenses incurred in this action; and

D.   That the Court grant the United States such other relief as it deems just and proper.

Date: April 16, 2018   CRAIG CARPENITO
                                                       United States Attorney

                                                       RICHARD E. ZUCKERMAN
                                                       Principal Deputy Assistant Attorney General

                                                       /s/ Erin F. Darden
                                                       ERIN F. DARDEN
                                                       Trial Attorney, Tax Division
                                                       U.S. Department of Justice
                                                       P.O. Box 227
                                                       Washington, D.C. 20044
                                                       202-307-6501 (v)
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                                                       Erin.Darden@usdoj.gov

JS 44 (Rev. 07/16) **CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

❐ 1 U.S. Government Plaintiff
❐ 2 U.S. Government Defendant
❐ 3 Federal Question *(U.S. Government Not a Party)*
❐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff*
(For Diversity Cases Only) *and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	❐ 1	❐ 1	Incorporated *or* Principal Place of Business In This State	❐ 4	❐ 4
Citizen of Another State	❐ 2	❐ 2	Incorporated *and* Principal Place of Business In Another State	❐ 5	❐ 5
Citizen or Subject of a Foreign Country	❐ 3	❐ 3	Foreign Nation	❐ 6	❐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
❐ 110 Insurance	**PERSONAL INJURY** / **PERSONAL INJURY**	❐ 625 Drug Related Seizure of Property 21 USC 881	❐ 422 Appeal 28 USC 158	❐ 375 False Claims Act
❐ 120 Marine	❐ 310 Airplane / ❐ 365 Personal Injury - Product Liability	❐ 690 Other	❐ 423 Withdrawal 28 USC 157	❐ 376 Qui Tam (31 USC 3729(a))
❐ 130 Miller Act	❐ 315 Airplane Product Liability / ❐ 367 Health Care/ Pharmaceutical			❐ 400 State Reapportionment
❐ 140 Negotiable Instrument	❐ 320 Assault, Libel & Slander / Personal Injury		**PROPERTY RIGHTS**	❐ 410 Antitrust
❐ 150 Recovery of Overpayment & Enforcement of Judgment	❐ 330 Federal Employers' Liability / Product Liability		❐ 820 Copyrights	❐ 430 Banks and Banking
❐ 151 Medicare Act	❐ 340 Marine / ❐ 368 Asbestos Personal Injury Product Liability		❐ 830 Patent	❐ 450 Commerce
❐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	❐ 345 Marine Product Liability		❐ 840 Trademark	❐ 460 Deportation
	PERSONAL PROPERTY			❐ 470 Racketeer Influenced and Corrupt Organizations
❐ 153 Recovery of Overpayment of Veteran's Benefits	❐ 350 Motor Vehicle / ❐ 370 Other Fraud	**LABOR**	**SOCIAL SECURITY**	❐ 480 Consumer Credit
❐ 160 Stockholders' Suits	❐ 355 Motor Vehicle Product Liability / ❐ 371 Truth in Lending	❐ 710 Fair Labor Standards Act	❐ 861 HIA (1395ff)	❐ 490 Cable/Sat TV
❐ 190 Other Contract	❐ 360 Other Personal Injury / ❐ 380 Other Personal Property Damage	❐ 720 Labor/Management Relations	❐ 862 Black Lung (923)	❐ 850 Securities/Commodities/ Exchange
❐ 195 Contract Product Liability	❐ 362 Personal Injury - Medical Malpractice / ❐ 385 Property Damage Product Liability	❐ 740 Railway Labor Act	❐ 863 DIWC/DIWW (405(g))	❐ 890 Other Statutory Actions
❐ 196 Franchise		❐ 751 Family and Medical Leave Act	❐ 864 SSID Title XVI	❐ 891 Agricultural Acts
		❐ 790 Other Labor Litigation	❐ 865 RSI (405(g))	❐ 893 Environmental Matters
REAL PROPERTY	**CIVIL RIGHTS** / **PRISONER PETITIONS**	❐ 791 Employee Retirement Income Security Act	**FEDERAL TAX SUITS**	❐ 895 Freedom of Information Act
❐ 210 Land Condemnation	❐ 440 Other Civil Rights / **Habeas Corpus:**		❐ 870 Taxes (U.S. Plaintiff or Defendant)	❐ 896 Arbitration
❐ 220 Foreclosure	❐ 441 Voting / ❐ 463 Alien Detainee		❐ 871 IRS—Third Party 26 USC 7609	❐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
❐ 230 Rent Lease & Ejectment	❐ 442 Employment / ❐ 510 Motions to Vacate Sentence			
❐ 240 Torts to Land	❐ 443 Housing/ Accommodations / ❐ 530 General			❐ 950 Constitutionality of State Statutes
❐ 245 Tort Product Liability	❐ 445 Amer. w/Disabilities - Employment / ❐ 535 Death Penalty	**IMMIGRATION**		
❐ 290 All Other Real Property	❐ 446 Amer. w/Disabilities - Other / **Other:**	❐ 462 Naturalization Application		
	❐ 448 Education / ❐ 540 Mandamus & Other	❐ 465 Other Immigration Actions		
	❐ 550 Civil Rights			
	❐ 555 Prison Condition			
	❐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

❐ 1 Original Proceeding
❐ 2 Removed from State Court
❐ 3 Remanded from Appellate Court
❐ 4 Reinstated or Reopened
❐ 5 Transferred from Another District *(specify)*
❐ 6 Multidistrict Litigation - Transfer
❐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

❐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: ❐ Yes ❐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the

_____ District of _____

	)	
	)	
	)	
	)	
Plaintiff(s)	)	
v.	)	Civil Action No.
	)	
	)	
	)	
	)	
	)	
Defendant(s)	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE
(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____ , a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

_____ .

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: